**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

**TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929**

**WP(C).No. 36569 of 2007(C)**

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**(AGAINST E.P.P.484/07 IN O.S.25/99 OF THE ADDL.SUB COURT, N.PARAVUR)**

**PETITIONER:**

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**K.P.MANI SATHEESAN,**
**W/O SATHEESAN, AGED 46, KANAKKATTUSSERY HOUSE,**
**CHERAI KARA, PALLIPPURAM VILLAGE.**

**BY ADV. SRI.V.A.PRADEEP KUMAR**

**RESPONDENT:**

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**CHANDRASBOSE, AGED 39,**
**S/O GOPALAN, NADUPARAMBIL HOUSE,**
**CHERAI KARA, PALLIPPURAM VILLAGE.**

**BY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

*KSS*

**M.N. KRISHNAN, J.**

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**W.P.C. NO. 36569 OF 2007**

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**Dated this the 11th day of December, 2007.**

**J U D G M E N T**

This writ petition is preferred for a direction to the respondent to grant instalment facility for the decree amount and to stay all further proceedings. The suit was compromised between the parties and a decree was passed. I am informed that already Rs.37,500/- has been paid till date and so for the balance of the decree amount the property is to be sold on 12.12.07. It is submitted that a portion of the property will be sufficient for discharging the decree debt and so the Court below has gone wrong in ordering sale of the entire property. I am informed that it is a mortgage decree as well. When it is so a portion of the mortgage property cannot be sold in the light of the decision of this Court in ***Dhanalakshmi Bank Ltd. v. Divakaran 2000 (2) KLT 231***.

2. Ultimately the learned counsel would submit that at least a breathing time may be given for making the payment. So far as the instalment facility is concerned, that too, after a compromise decree unless and until the decree holder consents it may not be easy for the Court to grant instalment facility. Therefore, I grant permission to the writ petitioner to move an application before the executing Court with a prayer to grant instalment facility and if the decree holder consents some time may be given. In order to facilitate that I direct the Court below to defer the sale which is posted for tomorrow for a period of six weeks.

The writ petition is disposed of accordingly.

**M.N. KRISHNAN, JUDGE.**

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